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REMARKS

This response is intended as a full and complete response to the final Office Action mailed August 24, 2006. In the Office Action, the Examiner notes that claims 1-9 and 14-17 are pending and rejected, however, Applicant notes that claims 1-3, 5-9 and 14-17 are pending and rejected.

In view of the following discussion, Applicant submits that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicant believes that all of the pending claims are now in allowable form.

It is to be understood that Applicant does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

REJECTIONS

35 U.S.C. §103

Claims 1-3, 5-9 and 14-17

The Examiner has rejected claims 1-3, 5-9 and 14-17 as being obvious and unpatentable under the provisions of 35 U.S.C. §103(a). In particular, the Examiner has rejected claims 1-3, 5-9 and 14-17 as being unpatentable over Kannas et al. (U.S. Patent No. 6,683,853 B1, hereinafter "Kannas") in view of Rinne (U.S. Patent No. 6,845,100, hereinafter "Rinne"). Applicant respectfully traverses the rejection.

In general, Kannas teaches a system for allocating system resources to provide a selected quality of service in connection with data communications. As taught in Kannas, a mobile user station requests a first quality of service level and, in response to a determination that system resources for providing the first quality of service level are not available, the system assigns resources for providing a second quality of service level. The system monitors the availability of system resources and if system resources for providing the second quality of service level become available, the system allocates resources to support the first quality of service level. (Kannas, Abstract). Kannas, however, fails to teach or suggest Applicant's invention of at least claim 1, as a whole.

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Applicant agrees that, as stated by the Examiner, Kannas fails to teach or suggest a quality of service information element having at least one traffic class field for conveying a request for the preferred ones of traffic classes in the priority order. Thus, Kannas fails to teach or suggest Applicant's invention as a whole.

Furthermore, Rinne fails to bridge the substantial gap as between Kannas and Applicant's invention of at least claim 1.

In general, Rinne teaches quality of service (QOS) mechanisms for wireless transmission of IP traffic. In particular, IP packets classified according to QOS are mapped onto radio bearers according to various mechanisms. As taught in Rinne, packets arriving at or leaving from a first network are checked to see if an indicated QOS has been achieved in transit before arriving and leaving and, if not, the QOS actually allocated is degraded accordingly for purposes of further transmission. Rinne, however, alone or in combination with Kannas, fails to teach or suggest Applicant's invention, as a whole. Namely, Rinne fails to teach or suggest a quality of service information element having at least one traffic class field for conveying the request for preferred ones of traffic classes in said priority order, as claimed in Applicant's invention of at least claim 1.

In the Office Action, the Examiner asserts that the priority table disclosed in Rinne teaches the quality of service information element of Applicant's invention of claim 1. The priority table taught in Rinne, however, is exactly that, a table stored within a network element and accessed by the network element for determining respective priority levels of packets of different traffic classes. The priority table disclosed in Rinne is simply not included within any request transmitted by the network element. Rather, the priority table of Rinne is used locally by the network element in order to prioritize packets of different traffic classes. A table stored within a network element for use in prioritizing packets stored within the network element, as taught in Rinne, is simply not a quality of service information element included within a request for preferred ones of traffic classes that is issued by a mobile station during negotiation between the mobile station and a wireless data network, as claimed in Applicant's claim 1.

Furthermore, in the Office Action, the Examiner cites the traffic class-protocol field disclosed in Rinne for teaching the preferred ones of traffic classes of Applicant's invention. The traffic class-protocol field, however, does not teach preferred ones of

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traffic classes. Rather, the traffic class-protocol field includes every possible traffic class value from 0 through 255, which happen to be divided into five QOS classes. Specifically, as disclosed in Rinne, QOS class 1 includes traffic class values 10 – 14, QOS class 2 includes traffic class values 15 – 19, QOS class 3 includes traffic class values 20 – 39, QOS class 4 includes traffic class values 40 – 127, and QOS class 5 includes traffic class values 128 – 255. (Rinne, Col. 8, Lines 11 – 16). In other words, as taught in Rinne, the traffic class-protocol field merely provides a second level of packet differentiation (i.e., differentiation between packets of a given QOS class) using the range of traffic class values associated with that given QOS class. As such, the traffic class-protocol field of Rinne simply does not indicate preferred ones of traffic classes, as claimed in Applicant's claim 1.

Furthermore, in the Office Action, the Examiner cites a specific portion of Rinne, asserting that the cited portion of Rinne discloses that a QOS request packet having information relating to a QOS request is provided by a network with a QOS request. The portion of Rinne cited by the Examiner, however, merely indicates that a received packet may include information related to a quality of service requested only for that received packet. A data packet including a quality of service requested for that particular packet, as taught in Rinne, is simply not a request for preferred ones of traffic classes initiated by a mobile station during negotiation with a wireless data network, as claimed in Applicant's claim 1. In other words, Applicant's invention is directed toward a request initiated by a mobile station during negotiation with a wireless data network, while Rinne is directed toward processing individual received data packets in order to determine a quality of service associated with the individual data packets as they are received. This individual processing of packets as they are received, as taught in Rinne, is simply not a quality of service negotiation, as claimed in Applicant's claim 1.

Furthermore, even if the cited portion of Rinne did teach the request for preferred ones of traffic classes (which Applicant maintains Rinne does not), as described herein, Rinne would still fail to teach or suggest the quality of service information element of Applicant's invention. Rather, as described hereinabove, Rinne merely teaches a priority lookup table stored within a network element for use in classifying data packets. The priority lookup table of Rinne is not a quality of service information element conveying a request for preferred ones of traffic classes. Furthermore, Rinne is completely devoid of

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any teaching or suggest that the priority table is included within the request. As such, Rinne, alone or in combination with Kannas, fails to teach or suggest Applicants' invention of claim 1, as a whole.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). For at least the reasons described herein, Kannas and Rinne, alone or in combination, fail to teach or suggest Applicant's invention of at least claim 1, as a whole.

As such, for at least the reasons stated above, the Applicant respectfully submits that independent claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, independent claims 6, 15, and 16 recite limitations substantially similar to relevant limitations of independent claim 1. Therefore, for at least the reasons discussed above with respect to claim 1, Applicant respectfully submits that independent claims 6, 14, 15, and 16 are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

As such, Applicant submits that independent claims 1, 6, 14, 15 and 16 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 2-3, 5, 7-9 and 17 depend directly from independent claims 1, 6 and 16, and recite additional limitations thereof. Therefore, for at least the same reasons set forth above, Applicant submits that these dependent claims are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicant respectfully requests that the Examiner's rejections be withdrawn.

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CONCLUSION

Thus, Applicant submits that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Michael Bentley at (732) 383-1434 or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 10/20/06

Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808